

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

March 17, 2003

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Callahan, Associate Justice; and Guzman; bailiff. Calendar called

C038541 INMAN v. SACRAMENTO REGIONAL TRANSIT DISTRICT

Cause called. Charlotte E. Costan argued for appellant. Timothy S. Spangler argued for and Adrian L. Randolph appeared only for respondent. Cause submitted.

At 10:06 a.m., the court recessed. At 10:10 a.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Nicholson, Associate Justice.

C039862 THOMPSON, a Minor, etc., et al. v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

Cause called. Jay-Allen Eisen argued for appellant. John M. La Plante argued for respondent. Cause submitted.

At 10:35 a.m., the court recessed. At 10:39 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

C039250 CITY OF REDDING v. SUPERIOR COURT OF SHASTA COUNTY and LOCAL UNION NO. 1934 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

Cause called. Steven L. Mayer argued for appellant. Alan C. Davis argued for real party in interest. Cause submitted.

At 11:18 a.m., the court recessed. At 2:03 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Callahan, Associate Justice.

C038306 THE PEOPLE v. GRIFFITH

Cause called. Christine Vento, court appointed counsel, argued for appellant. Charles A. French, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:33 p.m., the court recessed. At 2:36 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Davis, Associate Justice.

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Nicholson, J.

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**C037789 O'RIORDAN v. FEDERAL KEMPER LIFE ASSURANCE COMPANY et al.
(Not for Publication)**

The judgment is affirmed.

NICHOLSON, J.

I concur in the judgment but write separately...

Accordingly, Mrs. O'Riordan concealed the true extent of her smoking, a material fact, from her agent which justified rescission of the policy of insurance.

Blease, Acting P.J.

Justice Nicholson affirms the judgment for reasons with which I disagree. Justice Blease affirms the judgment for different reasons, but I disagree with those reasons, too. I concur and dissent...

I would reverse the judgment.

Hull, J.

**C038317 BROCKEY et al. v. MOORE (Certified for Publication)
THE COURT:**

The opinion in the above-entitled matter filed on February 20, 2003, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.

FOR THE COURT:

SIMS, Acting P.J.

DAVIS, J.

MORRISON, J.

March 18, 2003

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Nicholson, Associate Justice; Raye, Associate Justice; Morrison, Associate Justice; and Facey; bailiff. Calendar called.

C040261 HARRIS v. GOURLEY, as Director, etc.

Cause called. Kenneth L. Swenson, Deputy Attorney General, argued for appellant. William Cole argued for respondent. Cause submitted.

At 9:49 a.m., the court recessed. At 9:54 a.m., the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Kolkey, Associate Justice.

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C040161 PALMER et al. v. FLEETWOOD ENTERPRISES, INC. et al.
C040765 Cause called. William E. Manning argued for appellants. Mark F. Anderson argued and Kan Tung Donohoe appeared only for respondents. Cause submitted.

At 10:22 a.m., the court recessed. At 2:01 p.m., the court reconvened with Nicholson, Associate Justice; Callahan, Associate Justice; and Hull, Associate Justice.

C042283 CITY OF SACRAMENTO v. THE SUPERIOR COURT OF SACRAMENTO COUNTY and MERAZ
Cause called. Marcos A. Kropf, Senior Deputy City Attorney, argued for petitioner. Steven A. White argued for Real Party in Interest. Cause submitted.

C039803 KATZBERG v. CHANCELLOR, UNIVERSITY OF CALIFORNIA, DAVIS
Cause called. Raymond A. Cardozo argued for appellant. Dan Siegel argued for respondent. Cause submitted.

Court recessed at 3:01 p.m., until 9:30 a.m., Wednesday, March 19, 2003.

C033771 THE PEOPLE v. BRITT (Certified for Publication)
The judgment is affirmed.
SCOTLAND, P.J.
I concur: Morrison, J.
I respectfully dissent...
The judgment should be reversed.
Sims, J.

C038425 THE PEOPLE v. HILLERY (Not for Publication)
The judgment is affirmed.
CALLAHAN, J.
We concur: Nicholson, Acting P.J.
Hull, J.

C038948 THE PEOPLE v. WINN (Not for Publication)
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Hull, J.
Robie, J.

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- C039273 THE PEOPLE v. COTTON (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Raye, J.
Robie, J.
- C039284 THE PEOPLE v. AMATE (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed.
ROBIE, J.
We concur: Scotland, P.J.
Callahan, J.
- C039311 THE PEOPLE v. ROBINSON (Not for Publication)**
The judgment is reversed.
BLEASE, Acting P.J.
We concur: Nicholson, J.
Hull, J.
- C039831 THE PEOPLE v. BROWNING (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We concur: Sims, Acting P.J.
Kolkey, J.
- C040009 THE PEOPLE v. JACKSON (Not for Publication)**
The judgment is reversed as to counts 1 through 9 and affirmed as to count 20. The trial court is directed to amend the abstract of judgment accordingly and to send a certified copy of the amended abstract to the Department of Corrections.
ROBIE, J.
We concur: Scotland, P.J.
Sims, J.
- C040110 THE PEOPLE v. CASTILLO (Not for Publication)**
The juvenile court's order of November 1, 2001, imposing additional victim restitution in the amount of \$19,680 is vacated and the court is directed to so notify the parties. The court is further directed to amend its records to reflect that defendant's probation was terminated on July 17, 2001.
DAVIS, J.
We concur: Scotland, P.J.
Nicholson, J.

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- C041001 THE PEOPLE v. LEDFORD (Not for Publication)**
The appeal is dismissed.
DAVIS, Acting P.J.
We concur: Nicholson, J.
Callahan, J.
- C041784 THE PEOPLE v. JOHNSON, JR. (Not for Publication)**
Counts II and IV are dismissed. In all other respects, the judgment is affirmed.
BLEASE, Acting P.J.
We concur: Davis, J.
Hull, J.
- C041950 THE PEOPLE v. REEL (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We concur: Davis, J.
Hull, J.
- C041964 THE PEOPLE v. DEHART (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We concur: Davis, J.
Hull, J.
- C041974 THE PEOPLE v. McWAYNE (Not for Publication)**
The judgment is modified... As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment including these penalty assessments, indicating that the laboratory analysis fee and the penalty assessments have been imposed on count 2, rather than count 1, and correcting the amount of the drug program fee to \$100. A certified copy of the amended abstract of judgment shall then be forwarded to the Department of Corrections.
DAVIS, Acting P.J.
We concur: Nicholson, J.
Hull, J.
- C042107 THE PEOPLE v. LEWIS (Not for Publication)**
The judgment is affirmed.
DAVIS, J.
We concur: Blease, Acting P.J.
Hull, J.

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- C042121 THE PEOPLE v. NUNNELLY (Not for Publication)**
The judgment is affirmed.
DAVIS, J.
We concur: Blease, Acting P.J.
 Hull, J.
- C037270 ALBERTSON'S INC. v. YOUNG et al. (Certified for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
I concur: Morrison, J.
I concur with the majority's affirmance of the judgment, but, with respect, I do not agree with the majority's reasoning...
However, because appellants failed in their proof on a crucial issue, as I have discussed, the judgment is properly affirmed.
Sims, J.
- C038934 CROMWELL et al. v. STATE OF CALIFORNIA (Not for Publication)**
The judgment is reversed, and the cause is remanded to the trial court with directions to enter judgment in favor of the defendant State of California. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27 (a).)
SCOTLAND, P.J.
We concur: Davis, J.
 Nicholson, J.
- C040306 THULIEN, as Trustee, etc. v. FEIGHT (Not for Publication)**
C040307 The removal order is reversed, and the motion is remanded to the trial court for a determination given Theron's standing. The disqualification order is affirmed, but, as we have explained, this order has only a limited effect and the disqualification motion may be considered on remand with the removal motion. If attorney Schneider has joined Theron's motion to remove and disqualify, he may maintain that joinder. Theron is awarded his costs on appeal. The issue of Theron's request for attorney fees on appeal is also remanded to the trial court.
DAVIS, J.
We concur: Scotland, P.J.
 Callahan, J.

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C041229 In re JOSE G.; THE PEOPLE v. JOSE G. (Not for Publication)

The juvenile court's determination that the minor's maximum period of confinement is 11 years 8 months is vacated. The matter is remanded for the juvenile court to determine the misdemeanor or felony status of the Penal Code section 261.5, subdivision (c) violation and to recalculate the minor's maximum period of confinement. In all other respects, the judgment (order committing the minor to the CYA) is affirmed.

DAVIS, Acting P.J.

We concur: Nicholson, J.

Hull, J.

March 19, 2003

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Hull, Associate Justice; and Guzman; bailiff. Calendar called.

C037673 WELLS FARGO BANK v. CLARENDON SERVICES, INC.

C038435 WELLS FARGO BANK v. CLARENDON SERVICES, INC.

Cause called. Paul J. Dion argued for appellant. Jeffrey S. Galvin argued and submitted additional citations and Thomas D. Jacob appeared only for respondent. Cause submitted.

At 10:00 a.m., the court recessed. At 10:03 a.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Hull, Associate Justice.

C039454 THE PEOPLE v. TAYLOR

Cause called. Hilda Scheib, court appointed counsel, argued for appellant. James Ching, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:17 a.m., the court recessed. At 10:24 a.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Robie, Associate Justice.

C040292 THE PEOPLE v. WAYNE

Cause called. Richard M. Doctoroff, court appointed counsel, argued for appellant. Raymond L. Brosterhous III, Deputy Attorney General, argued for respondent. Cause submitted.

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Davis, J.

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- C038852 THE PEOPLE v. GONZALEZ (Not for Publication)**
THE PEOPLE v. MENDOZA
The judgment is affirmed.
HULL, J.
We concur: Blease, Acting P.J.
 Robie, J.
- C039044 THE PEOPLE v. TUCKER (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Nicholson, Acting P.J.
 Raye, J.
- C039361 THE PEOPLE v. LEISERSON (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting that it imposed a two-year consecutive sentence for the enhancement pursuant to section 12022.1, deleting the reference to a one-year term for an enhancement pursuant to section 667.5, subdivision (b), and correcting the order concerning restitution to reflect that the trial court ordered restitution of \$192.75 to the U.S. Bank Fraud Service Department and reserved jurisdiction over any additional restitution. The trial court is further directed to send a certified copy of the amended abstract of judgment to the Department of Corrections.
DAVIS, Acting P.J.
We concur: Nicholson, J.
 Callahan, J.
- C039544 THE PEOPLE v. BARR et al. (Not for Publication)**
The judgments against Jones and Barr are affirmed in their entirety.
NICHOLSON, J.
We concur: Blease, Acting P.J.
 Robie, J.
- C040795 THE PEOPLE v. KELLY (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Kolkey, J.
 Robie, J.

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- C039508 McCLELLAN v. McCLELLAN (Not for Publication)**
The orders are affirmed. Joan shall recover any costs on appeal.
(Cal. Rules of Court, rule 27 (a) (1).)
KOLKEY, J.
We concur: Raye, Acting P.J.
Hull, J.
- C041354 COUNTY OF YOLO et al. v. LYNCH (Not for Publication)**
The order is affirmed.
CALLAHAN, J.
We concur: Sims, Acting P.J.
Hull, J.
- C041340 In re STEVEN T.; THE PEOPLE v. STEVEN T. (Not for Publication)**
The judgment (order declaring the minor a ward of the court) is affirmed.
HULL, J.
We concur: Davis, Acting P.J.
Nicholson, J.

March 20, 2003

- C040218 THE PEOPLE v. REED (Not for Publication)**
The judgment is affirmed.
CALLAHAN, J.
We concur: Davis, Acting P.J.
Robie, J.

March 21, 2003

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Morrison, Associate Justice; and Guzman; bailiff. Calendar called.

- C039802 THE PEOPLE v. HAMPTON, JR.**
Cause called. Tamara P. Holland, court appointed counsel, argued for appellant and submitted additional citations. Angelo S. Edralin, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:46 a.m., the court recessed. At 9:52 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

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March 21, 2003, continued

C039687 SOUTH YUBA WATER DISTRICT v. HOFMAN et al.

Cause called. Steven P. Belzer argued for appellants. Brenton A. Bleier argued for respondent. Cause submitted.

At 10:16 a.m., the court recessed. At 10:21 a.m., the court reconvened with Blease, Associate Justice; Callahan, Associate Justice; and Hull, Associate Justice.

C041375 MAYLE et al. v. GRANT JOINT UNION HIGH SCHOOL DISTRICT et al.

Cause called. Leo F. Donohue argued for appellants. Elisa W. Ungerman argued for respondents. Cause submitted.

At 10:48 a.m., the court recessed until 9:30 a.m., Monday, March 24, 2003.

C040272 THE PEOPLE v. THUSS (Certified for Publication)

The judgment is affirmed.

SIMS, J.

We concur: Blease, Acting P.J.
Raye, J.

C041209 THE PEOPLE v. DUNHAM (Not for Publication)

The judgment is modified... As so modified, the judgment is affirmed. The trial court shall prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections.

HULL, J.

We concur: Davis, Acting P.J.
Nicholson, J.

C042022 THE PEOPLE v. ADAMS (Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Blease, Acting P.J.
Davis, J.

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March 21, 2003, continued

C039896 STEVENS v. DEPARTMENT OF CORRECTIONS
(Certified for Publication)

THE COURT:

It is **ordered** that the opinion filed herein on February 27, 2002, be modified as follows:...

This modification does not change the judgment.

The opinion in the above-entitled matter filed on February 27, 2002, was not **certified** for **publication** in the Official Reports. For good cause based on the request from the California Department of Justice, it now appears that the opinion should be published in the Official Reports and it is so **ordered**.

FOR THE COURT:

SIMS, Acting P.J.
NICHOLSON, J.
KOLKEY, J.

C041202 SIERRA VISTA REGIONAL MEDICAL CENTER v. BONTA, as Director, etc.
(Certified for Publication)

THE COURT:

The opinion in the above-entitled matter filed on February 19, 2003, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.

FOR THE COURT:

NICHOLSON, Acting P.J.
HULL, J.
KOLKEY, J.